

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KELLI MILES, DANIELLE MORAN-COMBS,
and ERIN MORAN,

Plaintiffs,

DECISION AND ORDER

v.

12-CV-599S

THOMAS GILRAY,

Defendant.

1. By separate Motions for Waiver of ADR Fee and Supporting Affirmations, plaintiffs Kelli Miles, Danielle Moran-Combs and Erin Moran, represented by Legal Assistance of Western New York, Inc., seek waiver of the requirement that they pay mediator fees chargeable pursuant to this Court's Alternative Dispute Resolution Plan (the "ADR Plan").

2. Pursuant to ADR Plan Section 2.1 A, this case was automatically referred to mediation at the time of filing of the complaint on June 26, 2012. By subsequent order filed February 5, 2013, the parties were directed to select a mediator from the Court's published list of panelists. By stipulation filed February 21, 2013, the parties selected a mediator.

3. Section 5.3 D of the Plan provides that "All . . . parties shall . . . bear their pro rata portions of the (Mediator's) fee." The Plan further provides that "A party who has not sought *in forma pauperis* status . . . but is financially unable to pay all or part of the

pro rata share of the Mediator's fee, may move for a waiver of the fee requirement on a form provided by the Court." (Plan, Section 5.3 E).

4. Plaintiff Kelli Miles submits in her Affirmation that she earns \$241 per month and that her spouse's gross monthly wages are \$300 per month. She included monthly social security payments for her disabled son in her statement of gross monthly earnings of \$1,189. She has essentially no savings and recites ordinary living expenses of more than \$1,100 per month. I find that plaintiff Miles has made a sufficient showing for relief from mediation fees.

5. Plaintiff Danielle Moran-Combs submits in her Affirmation that her average gross earnings from apparently seasonal work is approximately \$1,200 per month. She receives \$408 per month in child support. Although she has some modest savings at this time, she recites that her ordinary living expenses for rent, food, utilities and miscellaneous expenses approach \$1,000 per month. I find that plaintiff Moran-Combs has made a sufficient showing for relief from mediation fees.

6. Plaintiff Erin Moran submits in her Affirmation that her gross earnings from employment which began in January 2013 has been \$1,720 per month but that her employment has been interrupted by surgery and that she has not yet returned to work. Her husband is unemployed and receives social security disability payments, which presently provide the only income for the family. She receives child support of \$408 per month. She recites that she receives medicaid and food stamp support. Ordinary family

living expenses appear to exceed \$1,100 per month. I find that plaintiff Moran has made a sufficient showing for relief from mediation fees.

IT HEREBY IS ORDERED that the separate Motions for Waiver of ADR Fee (Docket Nos. 42, 43 and 44) of the three plaintiffs in this case are GRANTED.

SO ORDERED.

Dated: March 25, 2013
Buffalo, New York

s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court